

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
04-CV-1489 (JMR/FLN)

Elliott Holly )  
 )  
 v. ) ORDER  
 )  
 Deborah Konieska and Mike Smith )

Defendants object to the Report and Recommendation, issued December 8, 2009, by the Honorable Franklin L. Noel, United States Magistrate Judge. The Report recommended the Court deny defendants' motion for summary judgment [Docket No. 129]. Defendants' objections to the Report were timely filed, pursuant to Local Rule 72.2(b). In addition to filing objections, defendants submitted, and this Court considered, the recent decision in Wallingford v. Olson, 592 F.3d 888 (8th Cir. 2010).

Based on a de novo review of the record herein, the Court adopts the Magistrate's Report and Recommendation [Docket No. 155].

Accordingly, defendants' motion for summary judgment is denied [Docket No. 129].

IT IS SO ORDERED.

Dated: March 12, 2010

S/JAMES M. ROSENBAUM  
JAMES M. ROSENBAUM  
United States District Judge